

## LAW vision

## Ensuring equal rights of women

## An analysis of CEDAW

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THE UN has been very much vocal since its inception for protection of women's rights, as women are among the first victims of discrimination. They are most vulnerable and least empowered in many societies. Women's rights are included at various places in the UN Charter -- Preamble, Articles 1, 55 and 56. During the pre-UN development, the political right of women was first established in New Zealand in 1917. The International Conference of American States at Santiago voiced its concern about legal inequality of women in 1923; the next Conference in Havana in 1928 established an International Women Commission; and it was declared that women have equal political right as men and recommendation made to adopt urgent appropriate legislation by the governments in next Conference in Lima in 1938.

During post UN development period, the international community has created specific standards by adopting quite a few international instruments, i.e. UN Commission on Status of Women by ECOSOC on June 21, 1946; Convention for Suppression of Trafficking and Exploitation of Prostitution in 1950; Convention on the Political Rights of Women in 1952 (came into force in 1954); Convention on Nationality of Married Women in 1957; Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriage in 1962; Declaration on the Elimination of Discrimination Against Women in 1967; Declaration of the Protection of Women and Children in Emergency in Armed Conflict in 1974; and Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1979 (came into effect in 1981).

In this connection the first world women conference was held in Mexico City in 1975, the second and third such conferences were held in Copenhagen in 1980 and in Nairobi in 1985 respectively; and the fourth conference was held in Beijing in 1995. The Beijing 5+ review conference was held in 2000 and the Beijing 10+ review conference was held in 2005 in New York. By the institutional buildup in addition of UNHCR, Commission on Status of Women at Geneva and CEDAW Committee with 23 independent experts play

their role.

Historically women's right was always neglected. Their right was domestic in nature before the formation of the UN. The Preamble of the UN Charter first said about women's equal right like men. In the first draft of the UDHR, women were also ignored which was corrected afterwards. The Beijing Conference 1995 did not include women's rights, only included Programme of Action. The UN took a few steps to protect women's right. Its policy gives equal right for women in UN job vacancies, it initiates women's empowerment process throughout the world, takes action to improve the education of women, and every year March 08 has been observed as world women day under the supervision of the UN.

The declaration that 1975 was the international women year started a new era for improvement of women's status in every sphere of their life. The Nairobi Forward Looking Strategies (NFLS) for advancement of women was adopted by the third world conference on women. Due to the extensive discrimination against women, CEDAW was adopted on December 18, 1979 that came into force on September 03, 1981. The Convention purports to guarantee equal rights for women and prohibit discrimination against them. It obligates the State Parties to take all the appropriate measures to ensure quality of men and women in all matters relating to marriage and families.

In order to facilitate the process of undertaking human rights obligations, governments can reserve the right not to apply a specific part of a treaty and have to declare so when ratifying a treaty by submitting reservation. This procedure is designed to enhance the realisation of human rights by providing for exceptions to those guarantees, which governments cannot immediately and fully undertake at the time of ratification. It is not intended to enable governments to behave in a self-contradictory manner: to ratify a human rights treaty and then express their commitment to it, but to reserve their right not to apply the crucial human rights safeguards which such a treaty requires. Much controversy has been created regarding the CEDAW, because reservations in many cases appear to be contrary to the very aim of the Convention.

UK has the reservation regarding the very definition of discrimination (Article 1); regarding Article 2 (commitment to eradicate discrimination) reservation has been given by Bangladesh, Cook Islands, Egypt, Libya (submitted reservation upon signature), Malawi, Tunisia and UK; on Article 4 (measures to accelerate de facto equality) by Malawi (submitted reservation upon signature); Article 5 (measures to eliminate prejudices and stereotyping) by Cook Islands, France and India (submitted reservation upon signature); Article 7 (elimination of discrimination in political and public life) by Austria, Belgium, Germany, Luxembourg, Spain and Thailand; Article 9 (equal citizenship rights) by Cyprus, Egypt, France, Iraq, Jamaica, Jordan, Korea, Thailand, Tunisia, Turkey (submitted reservation upon signature) and UK; Article 10 (elimination of discrimination in education) by Thailand and UK; Article 11 (elimination of discrimination in employment) by Malta, Mauritius, New Zealand, Thailand and UK; Article 12 (equal labor rights) by Australia, Austria, Ireland, New Zealand, Thailand and UK; Article 13 (equal access to financial credits) by Bangladesh, Ireland, Malta and UK; Article 15 (full legal capacity) by Austria, Brazil, Ireland, Libya (submitted reservation upon signature), Jordan, Malta, Thailand, Tunisia, Turkey and UK; and finally on Article 16 (elimination of discrimination in marriage and family) by Bangladesh, Brazil, Egypt, France, India (submitted reservation upon signature), Iraq, Ireland, Jordan, Libya (submitted reservation upon signature), Luxembourg, Malta, Mauritius, Korea, Thailand, Tunisia, Turkey and UK.

Reservations have been raised as they relate to specific provisions of the Convention, starting from the general principle of non-discrimination. These are important because they indicate the unwillingness of the governments to undertake a commitment to eradicate discrimination against women in all its forms, which is the aim of the Convention in order to show the degree of agreement and disagreement with respect to non-discrimination in family law and citizenship, and with respect to the legal capacity of women. Countries, which apply Shari'a law, submitted reservations concerning the very obligation to eliminate discrimination. Some reservations



reflect the exclusively male heritage in the exercise of royal powers (Belgium, Luxembourg, Spain), others exclude women from employment in armed forces or from access to combat duties (Germany, New Zealand, Thailand); others restrict employment of women in night work or at jobs deemed hazardous to their health (Malta and UK). However, most of them retain restrictions on equal rights regarding personal status (e.g. marriage, family, citizenship and legal capacity of women).

While reservations made possible the ratification of Women's Convention by virtually all countries because they can opt out of some of its requirements, they also jeopardized the integral and effective application of the Convention as a whole. In other words, the problem is that formal

adherence to the Women's Convention is not accompanied by full commitment to the Convention. This problem led to the repeated calls upon the UN to secure an authoritative determination of the permissibility of reservations, which apparently undermine the commitment to the core human rights obligations towards women. The ratification of the Convention means to accept international norms for equality between men and women, but it might not coincide with national norms. Thus the Convention would have been much more adaptable if it would have considered the major systems or concepts of the world.

The writer is a freelancer and presently working with a multilateral donor agency.

## HC stalls FBCCI polls for 3 weeks

The High Court (HC) halted election process of the country's apex trade body, Federation of Bangladesh Chambers of Commerce and Industry (FBCCI), for three weeks. The HC also ordered the FBCCI Electoral Arbitration Council to explain within next three weeks as to why dropping of five voters of Bangladesh Garment Manufacturers and Exporters Association (BGMEA) from the final voter list would not be declared illegal.

An HC bench comprising Justice Shahid Mahmud Hossain and Justice Farid Ahmed passed the order following a writ petition filed by two aggrieved BGMEA voters -- Mohammad A Salam, BGMEA acting president, and Annisul Huq, a former president of the association. The other voters made ineligible are Faisal Samad, ABM Shamsuddin and Ferdous Parvez Bivon. The arbitration council dropped their names on September 25 from the final voter list of the upcoming FBCCI election following a complaint from Mahbub Minhas, a garment businessman. Barrister Rafiqul Haque and Barrister Rakanuddin Mahmud appeared for the petitioners while Barrister Ajmal Hossain stood for the defendant. - *The Daily Star, October 1.*

## Probe into institutional graft from December

The Anti-corruption Commission (ACC) is likely to file more cases against graft suspects as it has readied 79 more first information reports (FIR) while primary investigations of more than 100 allegations against different corruption suspects are also on. ACC Chairman Lt Gen (ret) Hasan Mashud Chowdhury told journalists that the commission's activities will assume a new dimension by the end of December this year as it is likely to initiate investigations of institutional corruption. Meanwhile, four former secretaries testified before the ACC in connection with a case filed against former premier Khaleda Zia, her younger son Arafat Rahman Koko, and 11 others, for allegedly awarding contracts for container handling in Chittagong and Dhaka inland container yards to Global Agro Trade (Pvt) Co Ltd (Gatco), despite its lacking in required qualifications. "A massive work is in the pipeline now as we have prepared 79 FIRs, and charge sheets against seven persons will be submitted soon. Investigations are on in 45 cases while the commission now has 26 cases pending with the court," said the ACC chairman during a routine news briefing in the commission's head office. The chairman said primary inquiries of 101 allegations of corruption are also on. - *The Daily Star, October 2.*

## Selling of 18 houses

## 4 former, serving secretaries sent to jail

A Dhaka court sent three former and present secretaries of different ministries and a former Rajdhani Unnayan Kartripakkha (Rajuk) director to jail after they surrendered before the court in connection with a graft case regarding the selling of 18 abandoned government houses. The case was filed on May 29 in connection with the selling of houses at a low price that caused Tk 127.64 crore loss to the government coffers. Meanwhile, the Anti-corruption Commission (ACC) pressed charges against detained BNP leader Salahuddin Quader Chowdhury, parliamentary affairs adviser to former prime minister Khaleda Zia, her assignment officer Firoz Mahmud Iqbal and five former high officials of Oriental Bank Ltd in three corruption cases. - *The Daily Star, October 2.*

## ACC appeals to SC against bail to Khaleda

The Anti-Corruption Commission (ACC) moved to the Supreme Court seeking stay of bail granted by the High Court to former prime minister Khaleda Zia in GATCO graft case. The appellate division is likely to take up the petition for hearing. The petition also sought to overturn the High Court order that stayed the proceedings of GATCO graft case. The case filed by ACC with Tejgaon Police Station on September 2 against Khaleda Zia, her younger son Arafat Rahman Koko and 11 others for involving in the scam, resulting in Tk 1,000 crore loss to the national exchequer. Khaleda in a writ had challenged invoking the Emergency Powers Rule in the case debaring her seeking bail from the court. The High Court granted bail to Khaleda and also stayed proceedings of the GATCO scam case. The court had also issued a rule upon the Anti Corruption Commission (ACC) to explain why the case placing under the Emergency Power Rule should not be declared illegal. - *Unb, Dhaka, October 2.*

## Gatco case

## ACC to quiz 2 detained ministers

A three-member investigation team of the Anti-Corruption Commission (ACC) will quiz detained former health minister Khandaker Mosharaf Hossain and former state minister for energy AKM Mosharraf Hossain in connection with the container handling case against Khaleda Zia. Sources said the team will quiz both the former ministers separately at Dhaka Central Jail gate. Members of the investigation team include investigation officer of the case ACC Deputy Director Jahurul Huda, officer of the Taskforce-23 Major Mostafa Kamal and CID Inspector of Taskforce-23 Nurul Islam. The two former ministers were the members of the purchase committee that approved the awarding of a contract to GATCO, a private company. The Anti-Corruption Commission has already questioned former five ministers, six retired secretaries and one serving additional secretary of the communications ministry. - *Unb, Dhaka, October 3.*

## Emergency should be lifted before

## local body polls: CEC

Emergency should be lifted at least two months before the polls from places where election will be held, Chief Election Commissioner (CEC) ATM Shamsul Huda said. EC has proposed for holding election to the city corporations where it is due from early next year. Huda said emergency is required to be lifted from areas where local body election will be held to facilitate the electoral campaign by the candidates. "What I visualise that I don't expect much that the government will lift emergency from across the country," Huda told reporters when asked to clarify his earlier statement that emergency should continue until the general election. He said the election will be scheduled in way keeping more than a month between announcement of the schedule and polling day. So, the emergency should be lifted at least two months before holding the election. But emergency should go from across the country before the national election.

"I told that emergency will go wherever the elections will be held. Because elections couldn't be held under the state of emergency," CEC said refuting media reports that quoted him as saying in Tangail that emergency is needed until the general election. - *Unb, Dhaka, October 3.*

## Money laundering

## Govt mulls treaty with UK to get back money

In an effort to recover the money siphoned offshore from the country, the interim government is planning to sign a treaty with the British government for getting assistance from New Scotland Yard. Popularly known as The Yard, the British law enforcing agency is responsible for policing the Greater London area as well as for helping other countries in investigating criminal offences. Anti-corruption Commission (ACC) Secretary Mukhlis Ur Rahman told the Daily Star about the plan. "We are working to strike a deal with the Scotland Yard for recovering the money smuggled off from the country," said the ACC secretary adding that an agreement must be signed between the two countries for the cooperation to take place. The ACC secretary also said before signing the treaty the Bangladesh government needs to promulgate some laws giving the specific bilateral relation legality for getting regular assistance in the future. "A dialogue is on regarding various strategic issues as the matter is between two states. It is also necessary to give the effort legality to yield long-term results from such a treaty," said the ACC secretary. - *The Daily Star, October 3.*

## Corresponding with the Law Desk

Please send your mails, queries, and opinions to: Law Desk, The Daily Star 19 Karwan Bazar, Dhaka-1215; telephone 8124944, 8124955; fax 8125155; email dslawdesk@yahoo.co.uk, lawdesk@thedailystar.net

## LAW event

## LET THERE BE LIGHT

## Observing Right to Information Day 2007

FORMER chief adviser to the caretaker government Justice Muhammad Habibur Rahman said an elected government with a greater participation of the people should formulate the right to information act. While, Law Commission Member Dr Enamul Hoque, along with other academics and rights activists, rather preferred that the law is enacted as soon as possible creating a legal basis for the people to seek information. The observations came from a discussion on 'citizen charter and right to infor-

mation' organised by Mass-line Media Centre (MMC) in the LGED auditorium in the capital, in association with Manusher Jonno, Article 19, and the World Bank as part of a three-day programme marking the Right to Information Day 2007.

Speaking as the chief guest, Justice Muhammad Habibur Rahman said the right to information act, if enacted by the present caretaker government, might even be cancelled later. "The act should be framed ensuring a balance between national security and good governance and on the other hand the peoples right to information," he said. Acceptability of the act and the government's account-

ability in enforcing it will be more visible if it is enacted by an elected government, Justice Habibur Rahman said noting that the government should enforce the act sincerely and check its misuse.

The three days celebrations of the Right to Information Day 2007 were divided in different sessions which includes the topics titled, 'Citizen Charter and Right to Information', 'Climate risk and Right to Information', 'Status of RTI in Bangladesh and Its International Standard', 'Women's access to information: Role of women journalists,

Speaking as the guest of honour, eminent economist Prof Wahiduddin Mahmud said the government should promulgate not only the right to information act, but also laws on conflict of interest.

"Taking advantage of the absence or weaknesses of such laws, the children of influential people are getting engaged in rampant corruption," he said adding that most of the corruption in the country take place in the implementation process of development projects, public pur-

chases, and in the bidding process. "Public procurement decisions must be recorded properly and the responsibilities in implementing the decisions must be specified," said Dr Wahiduddin Mahmud, also a former adviser to a caretaker government. Expecting that the interim government will promulgate the right to information act through an ordinance, journalism Professor Dr Golam Rahman said the government should set up offices to provide information sought by the people.

Democracy Watch Executive Director Taleya Rehman, Bangladesh Mohila Parishad General Secretary Ayesha Khanam, and MMC Executive Director Kamrul Hassan Monju also took part in the discussion chaired by Bangladesh Centre of Development Research President Dr Mizanur Rahman Shelley.

A discussion on climate risk and right to information was also held where Unnayan Shamunnay Chairman Dr Atiur Rahman, Bangladesh Centre for Advanced Studies Executive Director Dr Atiq Rahman, IUCN Country Representative Dr Inun Nishat, and Environment Secretary AHM Rezaul Kabir spoke, while disaster management expert M Kamal Uddin presented the keynote paper

At the roundtable organised on the second day of a three-day programme the legal experts preferred enacting a "right to information (RTI) act" as soon as possible to waiting for an elected government to do it. They were speaking at a discussion titled "Status of RTI in Bangladesh and Its International Standard" in the first session of the roundtable. Dr Shahdeen Malik presented the keynote paper at the session chaired by Attorney General Fida M Kamal and moderated by Mass-line Media Executive Director Kamrul Hassan Monju.

Renowned legal experts of the country demanded disclosure of information and evidence of all corruption cases in recognition of people's right to information. "Information and evidence of each corruption case and the bank accounts of the suspects have to be made public," said jurist Dr Kamal Hossain on the roundtable discussion. After people get such information, they will understand that there were incidents of corruption and that their wealth has been plundered, he added. Speaking as the chief guest, Kamal Hossain said right to information is recognised as a birthright in the UN Human Rights Charter and Article 7 of Bangladesh's constitution. "To shape and nurture democracy, people need to know how the country is being run, what decisions the government is taking and why," he said, adding that democracy means accountability to people who hold all powers of the state.

Attorney General Fida M Kamal, former law minister Abdul Matin Khasru, Dr Shahdeen Malik, barrister Tanjib-ul Alam and Dr Golam

Rahman of Daffodil University echoed the concern of Dr. Kamal. "It is not correct that the law cannot be formulated now. The caretaker government can pass an ordinance now and elected representatives will look into it later to find if there is any mistake," Fida said.

Shahdeen Malik pointed out that setting up of an elaborate system to provide information on demand will take a long time. "We can initially introduce the system in one ministry and the experience may help dissemination of information from all other ministries," he said. On the draft RTI law prepared by a core expert group on invitation of Manusher Jonno, Tanjib-ul Alam said the draft, now under scrutiny at the law ministry, proposes getting access to information of private organisations -- NGOs, private educational institutes and pharmaceutical companies, whichever has anything to do with people's lives. Abdul Matin Khasru and Editor of the New Age Nurul Kabir demanded withdrawal of the state of emergency for discussion on the RTI.

In the second session, Shailla Shahid of The Daily Star presented the keynote paper styled "Women's Access to Information: Role of Woman Journalists". Human rights activist Dr Hameeda Hossain presided over the session attended by Jose Adgarda L Compas, lead governance adviser of World Bank, and Zafri Jabin Chowdhury, senior communication officer of Unicef, Bangladesh. Executive director of Centre for Development Communication Muhammad Jahangir moderated the session.

The discussion titled 'People's ownership on public information: Bridging strategy' was held on the last day of the three-day programme. Academics and civil society members at a discussion yesterday called for creating mass awareness and involving marginal people in formulating the right to information act. They also stressed the need for setting up government information offices at the grass-roots levels to change the 'culture of secrecy' and bridge the gaps between the government and people, and between the private sectors and people.

The draft of right to information



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People's ownership on public information: Bridging strategy and Necessity of national broadcasting Commission in Bangladesh.

In the first session Law Commission Member Dr Enamul Hoque said that the draft of the right to information act was prepared in 2002, the promulgation of which has yet to come. "However, now there is a chance for its implementation. The information adviser is a former journalist and the act could be promulgated if he could be convinced properly," he added. Dr Enamul Hoque observed that the official secrets act needs not be scrapped for the sake of national security, but may be amended.

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